

1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF OHIO

3 WESTERN DIVISION

4 - - -

5 UNITED STATES OF AMERICA, : CRIMINAL ACTION CR-1-02-054

6 Plaintiff, :

: Cincinnati, Ohio

: Monday, February 3, 2003

7 -vs- :

8 TYREESE PUGH, :

: Sentencing

9 Defendant. :

: 2:50 p.m.

10 - - -

11 TRANSCRIPT OF PROCEEDINGS

12 BEFORE THE HONORABLE SUSAN J. DLOTT, JUDGE

13 - - -

14 For the Plaintiff: Wende Cross, Esq.
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17 For the Defendant: Pro Se
(Walter Pugh, Jr.)
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20 (Tyreese Pugh) Edward J. Felson, Esq.
21 Felson & Felson
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22 36 East Seventh Street
Cincinnati, Ohio 45202.

23 Law Clerk: Mike Rich
24 Courtroom Deputy: Steve Snyder
25 Court Reporter: Betty Schwab

1 PROCEEDINGS

2 THE COURTROOM DEPUTY: The next case is
3 CR-1-02-54-2, United States of America v. Tyreese Pugh.
4 Will the parties please step forward?

5 MR. FELSON: Edward Felson for Tyreese Pugh.

6 MS. CROSS: Wende Cross for the United States,
7 Your Honor.

8 THE COURT: And are you Tyreese Pugh?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: And are you represented in this
11 proceeding by Edward Felson, a attorney who is present here
12 in court with you today?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: On a former day, the defendant
15 pleaded not guilty to count one, conspiracy to commit a
16 bank robbery; count two, armed robbery; count three,
17 brandishing a firearm during a crime of violence; and,
18 four, possession of a firearm by a convicted felon. The
19 jury trial began in this case on September 3, 2002, and on
20 September 10, 2002, the defendant was found guilty as
21 charged on all counts in which he was named in the
22 indictment.

23 At that time, the matter was refer to the United
24 States Probation Department for a presentence investigation
25 and report. The Court has received the presentence report

1 prepared December 4, 2002.

2 Ms. Cross, have you received a copy of the
3 presentence report?

4 MS. CROSS: I have, Your Honor.

5 THE COURT: Mr. Felson, have you received a copy
6 of the presentence report?

7 MR. FELSON: I have.

8 THE COURT: And, Mr. Pugh, have you received a
9 copy of the presentence report?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Have you had an opportunity to
12 discuss it with Mr. Felson?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Then I would now like to address the
15 factual findings for sentencing. The Court will accept the
16 presentence report as part of the sentencing facts in this
17 case and will proceed to address any additional sentencing
18 facts the parties wish to present.

19 Let me ask counsel, are any of the facts reported
20 in the presentence report disputed by the government or the
21 defendant? Ms. Cross?

22 MS. CROSS: No, Your Honor.

23 THE COURT: Mr. Felson?

24 MR. FELSON: Yes. Actually, it wasn't going to
25 be, and then I just heard some substantial discussion about

1 how Walter Pugh was sort of the leader in this, and my
2 paragraph 48 indicates both appear equally culpable. So it
3 doesn't seem to be consistent with the co-defendant.

4 I'm sort of surprised at the status, that the
5 government is taking a different point of view for each. I
6 guess it appears that way anyway. Maybe they're not, but
7 where they're using one argument with Walter Pugh and then
8 sort of undoing it with Tyreese and saying he's equally
9 culpable.

10 THE COURT: Are you saying he should get an
11 enhancement?

12 MR. FELSON: No, no. I'm just considering,
13 certainly not an enhancement, but maybe we would discuss a
14 downward departure for that reason. Another issue that
15 I'll address in the future, but I'm just -- certainly, he's
16 not the one more culpable. He was the son. He was the
17 follower, and I'm just making that point that it sounded to
18 me like --

19 THE COURT: So you're not disputing what's in
20 paragraph 48?

21 MR. FELSON: I'm not disputing the zero. We
22 don't want to depart upward. We don't want any
23 enhancements, of course not. But I just wanted to make
24 that point, that that statement "they appear equally
25 culpable" apparently was not used in Walter Pugh's, I

1 guess, presentence investigation.

2 THE COURT: Okay. Thank you, Mr. Felson.

3 Do you have any additional sentencing facts you
4 wish to present, Ms. Cross?

5 MS. CROSS: No, Your Honor.

6 THE COURT: Mr. Felson, any additional sentencing
7 facts?

8 MR. FELSON: No.

9 THE COURT: All right. Then, there being no
10 objections to the factual statements contained in the
11 presentence report, the Court adopts those statements as
12 its findings of fact.

13 The defendant has been found guilty of all counts
14 in which he was named in the indictment. Accordingly, the
15 defendant is adjudged guilty of case number CR-1-02-54-2,
16 conspiracy to commit a bank robbery in count one; armed
17 robbery in count two; brandishing a firearm during a crime
18 of violence in count four; and possession of a firearm by a
19 convicted felon in count five.

20 Pursuant to 18 United States Code Section 3553,
21 the Court makes the following findings of relevant fact
22 significant to the imposition of sentence. In count one,
23 the defendant is guilty of violating 18 United States Code
24 Section 371, which is a Class B felony and subjects the
25 defendant to a maximum of 25 years imprisonment, a \$250,000

1 fine, a period of supervised release of five years, and a
2 \$100 special assessment.

3 In count two, the defendant is guilty of
4 violating 18 United States Code Section 2113(a) and (d) and
5 18 USC Section 2, which is also a Class B felony and
6 carries the same penalties as that in count one.

7 In count four, the defendant is guilty of
8 violating 18 USC Section 924(c)(1)(A)(ii), which is a Class
9 A felony and subjects the defendant to a mandatory minimum
10 7 years imprisonment to the sentence imposed on the count
11 two offense, a period of supervised release of five years
12 and a \$100 special assessment.

13 And, finally, in count five the defendant is
14 guilty of violating 18 United States Code Section 922(g)(1)
15 and 924(a)(2), which is a Class C felony and subjects the
16 defendant to a maximum of ten years imprisonment, a
17 \$250,000 fine, a period of supervised release of three
18 years, and a \$100 special assessment.

19 However, the Sentencing Guidelines Manual
20 controls the determination of the sentence in this case.

21 Let me next deal with the issue of objections.
22 The final presentence report indicates there are no
23 remaining objections to the presentence report.

24 Let me ask counsel, are there any objections to
25 the presentence report that have not been previously

1 raised?

2 MR. FELSON: The only issue, Judge, my client
3 asked me on paragraph 69, the increase of one in the
4 offense level. I couldn't give him an answer for that. I
5 apologize. It's not marked. And if maybe the probation
6 office could just help us out, we can get rid of that
7 issue.

8 THE COURT: All right. Ms. Cross, you want to
9 rely on Ms. Egner again?

10 MS. CROSS: Yes, Your Honor.

11 MS. EGNER: I assume what you're referring to is
12 the multiple count adjustment.

13 THE COURT: Ms. Egner, why don't you come up
14 here? Because it's easier for Betty and I to hear you.

15 MS. EGNER: I apologize.

16 THE COURT: That's okay.

17 MS. EGNER: I assume what you're referring to is
18 the multiple count adjustment; is that correct?

19 MR. FELSON: The increase in offense level in
20 paragraph 69.

21 MS. EGNER: I'm sorry. Okay. If you start with
22 paragraph 65 and read down, I think it's probably a little
23 bit easier. What we're trying to do is come up with a
24 final determination as far as what the culpability in the
25 offense level would be for all this conduct put together.

1 And so you have your adjusted offense level for counts one
2 and two, and that's the highest offense level for each of
3 the groups.

4 Do you follow me so far?

5 And so, if you look at U.S. Sentencing Guidelines
6 Section 3D1.4, that is assigned one unit, just in one unit
7 for purposes of just getting it all together. And then the
8 adjusted offense level for count five is 20. And that 20
9 is six -- it's six levels lower than the first one. So you
10 don't get a whole unit for that; you only get a half of a
11 unit.

12 It's a sign and a value score. You really need
13 to read the Guidelines in conjunction with this. But it's
14 a sign and a value to it. Okay?

15 And if you look at the greater offense level
16 that's 26, you have one-and-a-half units, and
17 one-and-a-half units increases the offense level by one.
18 It's a severity index for combining the two groups.

19 Does that help you?

20 MR. FELSON: (Speaking to the defendant.) Does
21 it help you?

22 MS. EGNER: It's tricky. You really need to read
23 the Guidelines with it, I think.

24 THE COURT: Ms. Egner, thank you for walking us
25 through that. I think that was a masterful job.

1 Anything? Any other objections?

2 MR. FELSON: We notice that there has been a
3 recommendation for the lower end, so we're not objecting.
4 I have been through everything with him.

5 THE COURT: I'm not getting to allocution yet.
6 I'm just doing objections.

7 MR. FELSON: No objections.

8 THE COURT: Any objections, Ms. Cross?

9 MS. CROSS: No objections.

10 THE COURT: All right. Then let me go over what
11 the applicable guidelines are.

12 Tyreese Dorran Pugh was found guilty following a
13 trial by jury of the following: Count one, conspiracy to
14 commit bank robbery, a Class B felony in violation of Title
15 18 United States Code Section 371; count two, armed
16 robbery, a Class A felony in violation of 18 USC Section
17 2113(a) and (d), and Section 2; count four, brandishing a
18 firearm during a crime of violence, which is a Class A
19 felony in violation of 18 United States Code Section
20 924(c)(1)(A)(ii); and count five, possession of a firearm
21 by a convicted felon, a Class C felony in violation of 18
22 United States Code Section 922(g)(1) and 924(a)(2).

23 The instant offenses occurred on April 24, 2002.
24 As a result, the 2002 edition of the Guidelines Manual was
25 used in calculating the offense level. Counts one and two

1 are grouped together under Sentencing Guideline Section
2 3D1.2(b) because they represent a single course of conduct
3 with the same criminal objective and represent one
4 composite harm to the same victim. Count two is the
5 substantive offense which was the sole object of the
6 conspiracy in count one.

7 Count four, which is a violation of 18 USC
8 Section 924, specifies a term of imprisonment to be imposed
9 and requires such sentence to run consecutively to any
10 other term of imprisonment and is not grouped under any
11 circumstances. The sentence to be imposed on the count
12 four offense is determined by statute and imposed
13 independently.

14 The count five offense is a separate group
15 because it embodies conduct unrelated and subsequent to
16 counts one and two.

17 What I've got here for you is really an
18 explanation that was probably given better by Ms. Egner,
19 but I'll make an attempt at it.

20 Group One, which is counts one and two, the
21 guideline for 18 USC Section 2113 involving robbery is
22 found at Sentencing Guideline Section 2B3.1. Subsection A
23 indicates the base offense level is 20. Sentencing
24 Guideline Section 2B1.3(b)(1) provides for a two-level
25 increase if the property of a financial institution or post

1 office was taken.

2 Pursuant to Sentencing Guideline Section
3 2B3.1(b)(2)(B), the offense level is increased by six if a
4 firearm, although not discharged, was otherwise used.
5 However, this specific offense characteristic is not
6 applicable to avoid the potential for double counting
7 because sentencing under this guideline is being imposed in
8 conjunction with a sentence for an underlying offense.

9 According to Sentencing Guideline Section
10 2B3.1(b)(4)(B), two levels are added if anyone was
11 physically restrained to facilitate the commission of the
12 offense or escape from the scene.

13 Sentencing Guideline Section 2B3.1(b)(7)(C)
14 provides incremental increases to the offense level based
15 on value of the property taken over \$10,000. Since the
16 robbery involved \$153,189, the offense level is increased
17 by two. Although Sentencing Guidelines Section 3A1.3
18 states the offense level is increased by two if a victim
19 was physically restrained, no adjustment applies since this
20 factor is addressed in a specific offense characteristic to
21 Sentencing Guideline Section 2B3.1. No other adjustments
22 apply, making the adjusted offense level or subtotal 26.

23 Now, Group Two, which is count five. The
24 guideline for an 18 United States Code Section 922(g)
25 offense involving the unlawful receipt, possession or

1 transportation of firearms or ammunition is found at
2 Sentencing Guidelines Section 2K2.1. Subsection (a)(4)
3 provides the base offense level of 20 since the defendant
4 committed the instant offense after sustaining one felony
5 conviction for a crime of violence or a controlled
6 substance offense. There is no enhancement based on the
7 number of guns, as the defendant illegally possessed only
8 one firearm. No other adjustments apply, making the
9 adjusted offense level or subtotal 20.

10 According to Sentencing Guidelines Section 3B1.4,
11 a multiple count adjustment, one unit is assigned a group
12 of the highest adjusted offense level. The second group is
13 assigned one-half a unit based on the relationship in terms
14 of points Group One has to Group Two. The assignment of
15 one-and-a-half units results in a one-level increase to the
16 highest offense level. As a result, the combined adjusted
17 offense level is 27.

18 The defendant has not accepted responsibility for
19 his criminal behavior and, after being convicted by a jury,
20 maintains his innocence with respect to the instant
21 offenses. As a result, no adjustment pursuant to
22 Sentencing Guideline Section 3E1.1 applies to this case.

23 The defendant has 17 criminal history points,
24 which establishes a criminal history category of VI. Based
25 on a total combined offense level of 27 and a criminal

1 history category of VI, the guideline imprisonment range is
2 130 to 162 months.

3 Pursuant to Sentencing Guidelines Section
4 2K2.4(a)(2), the Guideline sentence for a violation of 18
5 United States Code Section 924(c), which is count four, is
6 the minimum term of imprisonment required by statute, which
7 in this case is 7 years or 84 months.

8 The authorized term of supervised release for
9 counts one and two, as well as count four, is at least
10 three but not more than five years, because the offenses
11 are Class A or Class B felonies. For count five, which is
12 a Class C felony, the authorized term is at least two but
13 not more than three years.

14 Pursuant to 18 USC Section 3561(a)(1), the
15 defendant is not eligible for a term of probation because
16 counts one and two are Class B felonies. In addition, the
17 count four offense, a Class A felony, requires a
18 consecutive sentence of imprisonment.

19 According to Sentencing Guidelines 2K2.4(b)(1),
20 where there is a federal conviction for the underlying
21 offense, a consolidated fine guideline is determined by the
22 offense level which would have applied to the underlying
23 offense absent a conviction under 18 USC Section 924(c).
24 In Group One, which encompasses counts one and two, the
25 adjusted offense level is 26. Had there not been a

1 conviction under 18 USC 924(c), the offense level would
2 have been 32, which includes a six-level enhancement for
3 otherwise using a firearm. As a result, the fine range for
4 an offender with a total combined offense level of 32 is
5 \$17,500 to \$175,000.

6 The First National Bank of Southwestern Ohio
7 suffered a loss of \$153,189. Restitution payment shall be
8 forwarded to the main branch of the bank at an address that
9 will be specified in the judgment and conviction order.

10 A special assessment in the amount of \$100 is
11 mandatory for each felony. Since Tyreese Pugh was
12 convicted of four felonies, the special assessment in the
13 amount of \$400 is owed and due immediately.

14 Do the parties have any questions about the
15 statutory or guideline provisions applicable to the
16 imposition of punishment in this case?

17 Ms. Cross?

18 MS. CROSS: No, Your Honor.

19 THE COURT: Mr. Felson?

20 MR. FELSON: No, Your Honor.

21 THE COURT: All right. Then we will now proceed
22 to the sentencing, and at this time the Court will
23 entertain anything the parties wish to say in mitigation or
24 aggravation of sentence.

25 Mr. Felson?

1 MR. FELSON: Your Honor, this young man,
2 obviously you have heard a lot about it. You have heard a
3 lot about him. He, I think, last saw his father before
4 engaging in this conduct -- I think his father was gone for
5 17, 18 years. He saw him when he was three. He sees him
6 again and follows him down a road of really terrible
7 conduct, and I think it's sad. I mean, really, bottom
8 line, it's sad. And now he's looking at 17 to 20 years in
9 the penitentiary, and he's barely 20 years old.

10 And I mean, I don't know what to say except that
11 in my belief after all this discussion, had his father, he
12 not run into his father at this time and this issue about
13 not being brought up by his father and led down this path
14 by his father, I don't think he ever would have robbed a
15 bank. He does have some receiving stolen properties and
16 attempted marijuana and trafficking, or actually it was
17 some cocaine he had attempted trafficking, but certainly
18 nothing of this nature and this level. And now he's not
19 looking to get out until he's in his late 30's.

20 With regard to that, I'm hoping the Court will
21 see fit to give him the minimum, and I -- the minimum
22 permitted by law. He doesn't seem to be a bad kid. I know
23 he's gotten along with his mother. His family has given
24 him support. They have been here throughout the trial.

25 I think everybody is aware of not why he did it.

1 I don't know why people follow their fathers, why they
2 follow their relatives, why they think that somebody can do
3 no wrong when that person has done wrong their whole life.
4 I don't understand that psyche. But certainly he followed
5 his father down this path, and I don't think there is any
6 question. I think that the state, the government, has sort
7 of eloquently put the fact that Walter was in charge of the
8 money. Walter was in charge of what car to take. Walter
9 was in charge of what hotel to stay in. The money was kept
10 by him. And this young man followed along. Obviously, he
11 played a role in it.

12 I don't think he's said too much during this
13 particular robbery, and I think he was just doing what he
14 was told to do, although he could have said no. And I'm
15 sure he understands that.

16 With that, I'm going to -- hopefully, the
17 Court -- I don't know if Tyreese has anything to say to the
18 Court or anything to say to the victim, but I'm just hoping
19 the Court will see fit to give him the minimum she needs to
20 give him.

21 I would say in state court, obviously we're not
22 in state court, but the difference between the amount of
23 time you do here and in state court is substantial, and I
24 don't know what relevance that has except that this young
25 man's life is about to be ruined, and maybe the Court could

1 see fit to give the least amount of time under the
2 circumstances.

3 He does have a child. He sees this parallel
4 coming where he's going to get out and his child won't have
5 seen him in 17 years. And then what do we have? I guess
6 this is society's problem. It's going to go on for
7 thousands of years to come. But here we are standing
8 before you asking for mercy. Thank you.

9 THE COURT: Thank you, Mr. Felson.

10 Mr. Pugh, anything you wish to say?

11 THE DEFENDANT: No, ma'am.

12 THE COURT: Ms. Cross, anything you wish to say?

13 MS. CROSS: Yes, Your Honor, briefly. I agree
14 with Mr. Felson to the extent this is a very sad case.

15 Before the Court stands a 22-year-old young man with a
16 criminal history category six, six, as a young man that's
17 been committing crimes since the age of 12, despite the
18 best efforts of Bessie Pew to offer him a stable
19 environment.

20 I won't say like father like son, because I'm an
21 optimist, and I believe that Tyreese, there is still some
22 hope for him, hope that he can be rehabilitated in prison,
23 hope that he can get some education, hope that he will get
24 additional help for whatever has driven him to commit all
25 these crimes, and hope that he will learn from his mistakes

1 and teach his son to avoid the same.

2 But the fact remains he committed a horrible
3 offense. There are victims to this offense with faces and
4 names who have had a terrible experience. For them, there
5 has to be some justice, and he still must be punished for
6 what he's done. The United States just asks the Court to
7 follow the recommendation of the Probation Office in
8 sentencing him.

9 THE COURT: Okay. Thank you, Ms. Cross.

10 And, Ms. Tettenhorst, I will consider your
11 testimony with regard to Mr. Tyreese Pugh as well.

12 Anything further before the Court pronounces
13 sentence?

14 MR. FELSON: No, Your Honor.

15 THE COURT: It's the duty of the Court to
16 sentence the defendant at this time; however, counsel will
17 have a final chance to make legal objections before the
18 sentence is actually imposed.

19 Pursuant to the Sentencing Reform Act of 1984,
20 it's the judgment of the Court that the defendant be hereby
21 committed to the custody of the Bureau of Prisons for a
22 term of 130 months on counts one and two and 120 months on
23 count five. Such sentences in counts one, two and five are
24 to be served concurrently with each other. The reason for
25 the 120 on count five was that there was a maximum of ten

1 years on that one.

2 The defendant is hereby committed to the custody
3 of the Bureau of Prisons for a term of 84 months on count
4 four, such sentence to be served consecutively to the
5 sentences imposed on counts one, two, and five.

6 The defendant shall participate in a mental
7 health evaluation and/or mental health counseling at the
8 direction of the Bureau of Prisons.

9 Following a sentence of imprisonment, the
10 defendant is ordered to be placed on supervised release for
11 a period of five years on counts one, two, four, and three
12 years on count five, such terms to be served concurrently.

13 Upon release from incarceration, the defendant is
14 ordered to report in person to the probation office in the
15 district to which he is released within 72 hours.

16 As a condition of supervised release, the
17 defendant shall pay any unpaid balance of his monetary
18 penalties. No interest shall accrue on any unpaid balance.
19 The defendant shall not commit another federal, state or
20 local crime and is prohibited from possessing a firearm or
21 other dangerous device. The defendant shall not possess
22 any illegal controlled substances. And, in addition, the
23 defendant shall comply with the standard conditions of
24 supervised release as adopted by the Court for the Southern
25 District of Ohio.

1 As a special condition of supervised release, the
2 defendant is ordered to refrain from any unlawful use of a
3 controlled substance and to submit to one drug test within
4 15 days of release and at least two periodic drug tests
5 thereafter.

6 The Court finds that the defendant is not capable
7 of paying a fine. Pursuant to 18 USC Section 3663, the
8 defendant is ordered to make restitution in the amount of
9 \$153,189 jointly and severally with co-defendant Walter
10 Pugh, Jr. to first National Bank of Southwestern Ohio.
11 Restitution is due immediately.

12 The defendant shall participate in a substance
13 abuse treatment program, either inpatient or outpatient, at
14 the direction of his probation officer, which may include
15 testing. The defendant shall participate in the mental
16 health treatment program at the direction of his probation
17 officer.

18 And a special assessment of \$400 is owed and due
19 immediately.

20 Mr. Pugh, I agree with everything that was said
21 by both counsel. You know, I hope we can break the cycle
22 with you. You know, I'm giving you the minimum amount,
23 because I hope, when you get out, you can come back into
24 society, meet your son, and live the rest of your life
25 lawfully.

1 In that regard, is there a geographic location
2 that you would like to be closest to? You want to be
3 closest to Cincinnati?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Okay.

6 MR. FELSON: And also I think he reiterates what
7 his father said; he would like to speak to his appellate
8 counsel before being shipped off wherever he's going.

9 THE COURT: All right. We'll arrange for that as
10 well.

11 Do you want to participate in the substance abuse
12 program while you're in custody? I'm not going to order it
13 if you don't want to do it.

14 THE DEFENDANT: All the programs they got,
15 everything.

16 THE COURT: Okay. All right. Because my next
17 question is, you don't have your high school degree yet,
18 and I'll order that you participate in the Bureau of
19 Prisons Substance Abuse Program. Would you like the Court
20 to recommend that you participate in a program to earn your
21 GED?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: Okay. The Court will order that as
24 well, that you participate in the Bureau of Prisons GED
25 Program.

1 Are you interested in an apprentice program?

2 MR. FELSON: Learn a trade.

3 THE COURT: To learn some kind of job skill?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: I will also order that. I'll
6 recommend that, which hopefully will get you preference.

7 Mr. Felson, do you have any objections as to why
8 the sentence should not be imposed as stated?

9 MR. FELSON: No. I mean I -- you know, there is
10 no reasonable objection.

11 THE COURT: Ms. Cross, any objection?

12 MS. CROSS: No, Your Honor.

13 THE COURT: Let me tell you about your rights on
14 appeal. Both parties are notified by this Court that you
15 have a right to appeal the sentence. If you're indigent
16 and cannot retain a lawyer, you may apply and one will be
17 appointed to represent you on your appeal. You're further
18 advised, in accordance with the provisions of Rule 4(b) of
19 the Rules of Appellate Procedure, you must file your notice
20 of appeal with the clerk of the United States District
21 Court within ten days of the filing of judgment.

22 The Court does hereby advise you that, if you so
23 request, the clerk the Court will prepare and file
24 immediately a notice of appeal on your behalf.

25 It's further ordered that the defendant shall

1 notify the United States Attorney for the Southern District
2 of Ohio within 30 days of any change in resident or mailing
3 address until all special assessments imposed by this
4 judgment are fully paid.

5 If you request, Mr. Pugh, I'll order the clerk of
6 courts to file your notice of appeal immediately after the
7 judgment is filed.

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Okay. And, Mr. Felson, I take it
10 that you would like someone else to represent him on his
11 appeal.

12 MR. FELSON: That is appropriate, yes.

13 THE COURT: All right. I'm going to remand
14 Mr. Pugh also to the custody of the United States Marshal,
15 and we will work with the marshal's office to see if we can
16 get appellate counsel appointed as soon as possible so they
17 can confer with both Mr. Pughs before they go off to
18 whatever federal facilities they're going to.

19 Mr. Pugh, good luck. I hope I never see you back
20 here again.

21 THE DEFENDANT: Thank you.

22 COURT ADJOURNED AT 3:20 P.M.

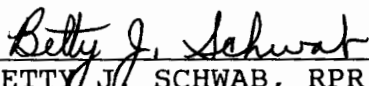
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C E R T I F I C A T E

I, Betty J. Schwab, the undersigned, do
hereby certify that the foregoing is a correct
transcript from the record of the proceedings in
the above-entitled matter.


BETTY J. SCHWAB, RPR
Official Reporter